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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) Y0998-220	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>July 6, 2006</u> Signature <u>Anne Vachon Dougherty</u> Typed or printed name <u>Anne Vachon Dougherty</u>		Application Number 09/237646	Filed 01/26/1999
		First Named Inventor Castelli	
		Art Unit 2162	Examiner Cam Y. Truong
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		<u>Anne Vachon Dougherty</u> Signature <u>Anne Vachon Dougherty</u> Typed or printed name <u>(914) 962-5910</u> Telephone number <u>July 6, 2006</u> Date	
<input type="checkbox"/>	applicant/inventor.		
<input type="checkbox"/>	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/98)		
<input checked="" type="checkbox"/>	attorney or agent of record. Registration number <u>30,374</u>		
<input type="checkbox"/>	attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below".			
<input checked="" type="checkbox"/>	Total of <u>1</u> forms are submitted.		

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Applicants request consideration of the following arguments regarding the prosecution of the subject patent application. At this time, Claims 1-4, 9-12 and 18 stand finally rejected and Claims 5-8 and 13-17 stand withdrawn. Applicants are not submitting arguments regarding the relevancy of the teachings of the cited art at this time, since such is not an appropriate topic for a pre-Appeal Brief review. Applicants do, however, respectfully request review of the history of the subject application in light of the comments found herein and respectfully request that prosecution be reopened with the generation of a new, non-final Office Action.

Applicants respectfully assert that the Examiner has made repeated errors in prosecuting the subject application, in spite of Applicants' continued efforts to advance the prosecution of the application. Applicants had submitted 6 responses to non-final actions between May of 2001 and May of 2003 prior to the filing of a Notice of Appeal in October of 2003. During that time, numerous efforts were made to assist the Examiner in understanding the language of the claims, the teachings of the cited art, and the MPEP standards for generating Office Actions, largely without the necessity of any claims' amendments since the cited art did not anticipate or obviate the language of the claims. After the filing of the Appeal Brief and multiple telephone interviews with Examiner Truong and her supervisor Jean Corrielus, the Final Office Action of July 30, 2003 was withdrawn

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and a new Office Action was generated on March 11, 2004. However, the newly generated Office Action was erroneously indicated as a Final Office Action, and was subsequently withdrawn after yet another telephone interview. Examiner Truong generated a non-final Office Action on June 22, 2004 citing new grounds for rejection of Claims 1, 2, 9 and 10, indicating that Claims 5-8 were allowed, and indicating that Claims 3, 4, 11 and 12 were allowable. After Applicants filed a response dated September 22, 2004, however, the Examiner next generated a Requirement for Restriction on December 1, 2005...**over five years after the first office action.** Applicants believe that it was both capricious and retaliatory of the Examiner to generate a Restriction Requirement after five years of prosecution of the claims in the one application and after indicating allowability of claims drawn to both the method and the apparatus. Applicants also believe that it was unreasonable of the Examiner to allow over 14 months to pass between the receipt of Applicants' Amendment (dated 9.22.2004) and the Requirement for Restriction.

Most recently, the Examiner issued a Final Office Action on April 6, 2006 in response to the Election filed January 3, 2006. Applicants believe that the Examiner erred in issuing the Office Action as a Final Office Action since the "Office Action Summary" of the previous Office Action (dated 6.22.04) was inconsistent with the conclusions reached in the "Detailed Action" of that action. Although Applicants had responded to that Action,

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clarification was required and should have been provided in the form of a non-final action. Applicants believe that the final status of the Office Action is inappropriate and further assert that the Final Office Action is flawed as detailed below.

Presently all claims stand rejected. The Examiner has rejected Claims 1-2, 9-10 and 18 under 35 USC 102(e) as anticipated by Liddy (sections 3-4 on pages 4-8 of the Office Action, not including the erroneously-labeled section 4 which begins on page 8 and relates to a different ground for rejection). By concluding that Liddy anticipates the claim language, the Examiner necessarily concludes that Liddy teaches each and every claim feature. However, the Examiner later states, in the sections labeled 6 on pages 10-14 that Claims 1-2, 9-10 and 18 are rejected under 35 USC 103(a) as unpatentable over Liddy in view of Jain. The Examiner expressly states, on page 12 and on page 14 that "Liddy does not explicitly the (sic) claimed limitation 'retrieving multidimensional data from a database in response to a user query'". Clearly the Examiner has erred in rejecting the claim language as anticipated by Liddy and then acknowledging that Liddy does not teach some of the claim language. Applicants believe that the flawed Final Office Action should be withdrawn.

Applicants further note that the Examiner had, in the previous Non-Final Office Action of 6.22.2004, rejected Claims 1, 2, 9 and 10 as unpatentable over Liddy, acknowledging that "Liddy

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does not explicitly teach the claimed limitation of "repeating step b through e until the results for said query is satisfied by the user". However, in the more recent anticipation rejection, the Examiner reaches a conclusion that Liddy anticipates the claim language, which conclusion is inconsistent with the previous obviousness rejection. Again, Applicants believe that the Office Action is flawed and should be withdrawn.